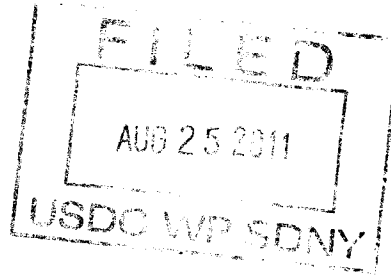


**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



-----X  
**SANDRA MUNDY,**  
individually and on behalf of a class,

**COMPLAINT - CLASS ACTION**

Plaintiff,

11 Civ 5979

v.

**DCM SERVICES, LLC**

**JUDGE KARAS**

Defendant.  
-----X

**INTRODUCTION**

1. Plaintiff Sandra Mundy brings this action to secure redress against unlawful attempts by defendant DCM Services, LLC to collect money from the relatives of deceased debtors. Plaintiff alleges violation of the Fair Debt Collection Practices Act.

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. § 1692d, 1692e, 1692f and 1692g.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1337 and 15 U.S.C. § 1692k (FDCPA).

4. Venue and personal jurisdiction over defendant in this District is proper because defendant's conduct impacted plaintiff here and defendant does business here.

### **PARTIES**

5. Plaintiff Sandra Mundy is an individual who resides in Tappan, New York. She is the daughter of Carolyn Scarantino, recently deceased.

6. Defendant DCM Services, LLC is a Delaware Limited Liability Company. Its Registered Agent and office are the CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

7. Defendant DCM Services, LLC is in the business of collecting debts originally owed to others, using the mails and telephone system for that purpose.

8. DCM Services, LLC is a debt collector as defined.

9. Among the types of collection activity engaged in by DCM Services, LLC is posthumous debt collection, in which attempts are made to induce the relatives of deceased debtors to pay the bills of the deceased even though no legal obligation to pay the bill of the deceased exists.

### **FACTS**

10. On or about July, 2011, Defendant DCM Services LLC sent the letter attached as **Exhibit A**.

11. **Exhibit A** is a form letter, sent with respect to a large number of debts, the only difference being the name of the decedent, date and information about the specific debt.

12. Exhibit A was received and opened by Sandra Mundy, daughter of Carolyn Scarantino.

13. Exhibit A purports to be addressed to the personal representative of the Estate of Carolyn Scarantino, but acknowledges that she is deceased ("We are sorry for your loss, and we understand that this is a difficult time for you. Our goal is to make this process as effortless as possible for everyone involved.")

14. Exhibit A requests payment of a \$577.46 debt allegedly owed by Carolyn Scarantino, but is intentionally ambiguous as to who, if anyone, is obligated to pay.

15. The salutation is "Dear Sir or Madam" and states ""Please accept this letter as a Notice of Claim on behalf of our client." However, there was no estate. Whether an estate exists in New York is a matter of public record.

16. The text of the letter is clearly directed to someone other than Carolyn Scarantino.

17. The letter is intended to provoke action by some natural person in the family of the decedent.

18. The letter then states "[P]lease call our office toll free at 1-877-326-1530 to discuss resolution of this matter and payment on this account. If you are not the personal representative, please contact us with the name and address of the personal representative or Estate Attorney who is handling the affairs of the deceased."

19. Since the existence or nonexistence of an estate is a matter of public record, this statement is contrived to be confusing.

20. The letter then continues, "[T]he following are payment options: Complete the payment slip below and mail in the enclosed postage paid envelope or call DCM Services toll-free at 1-877-326-5168 to pay using a check or electronic debit. Additional payment options may also be available by phone; please ask our representative for details."

21. Since a claim against an estate is handled in court, this statement can only be intended to induce a person related to the decedent to call and arrange to pay the debt.

22. On July 29, 2011, Plaintiff faxed a letter to DCM Services, LLC, which indicated that Ms. Mundy read the "Notice of Claim" and she indicated that the debt is not valid and requested verification of the debt.. A copy of this letter is attached as Exhibit B.

23. On August 10, 2011, DCM Services sent another letter, Exhibit C, addressed to The Estate of Carolyn T Scarantino c/o Sandra Mundy which provided an abstract of the Capital One, N.A. / Kohl's Department Store account.. This letter was received and opened by Sandra Mundy.

24. Exhibit C is a form letter, sent with respect to large number of debts, the only difference being the name of the decedent, date and information about specific debt.

25. Exhibit C invites the recipient to call a toll free number to discuss this matter.

26. DCM Services, LLC has caused Sandra Mundy's telephone to ring continuously.

27. Exhibit C is a form letter, sent with respect to large numbers of debts, the only difference being the name of the decedent, date and information about the specific debt.

28. Exhibit C invites the reader to call a toll-free number "to discuss this matter." The reader cannot be Carolyn Scarantino.

29. Since a Notice of Claim against an estate is handled in court, the Notice of Claim and invitation to contact DCM Services, LLC at its toll-free number, can only be intended to induce a person related to the decedent to call and arrange to pay the debt.

30. On information and belief, Exhibits A and C were designed with the objective of inducing a relative of the decedent to call DCM Services, LLC so that DCM Services, LLC can induce them to pay money for which there is no legal liability.

31. Exhibits A and C fail to disclose material information necessary in order to make the statements not misleading, namely, that the letter is sent to persons who may not be liable for the debt.

32. Exhibits A and C together with the telephone calls constitute repeated communication with third parties and each third party communication states that a third party owes a debt.

33. Exhibit A is deceptively furnished to recipients to create the false belief in a consumer that such form would be used to create the false belief in a consumer that the Notice of Claim was authorized or issued by an official.

VIOLATIONS ALLEGED

34. Exhibits A and C, together with defendant's telephone campaign, violates the FD CPA, 15 U.S.C. § 1692b, 1692b(2), 1692b(3), 1692c(b), 1692d, 1692d(5), 1692e, 1692e(9) and 1692e(10).

CLASS ALLEGATIONS

35. Plaintiff brings this claim on behalf of a class, consisting of (a) all natural persons with New York addresses (b) who received a letter in the form represented by Exhibit A or Exhibit C or telephone calls (c) dated during a period on a date one year prior to the filing of this action ending 20 days after the filing of this action.

36. The class is so numerous that joinder is impracticable.

37. There are more than 100 natural persons, other than the consumer, as defined by 15 U.S.C. § 1692b, with New York addresses who received a letter in the form represented by Exhibit A or Exhibit C or telephone calls during a period beginning on a date one year prior to the filing of this action and ending 20 days after filing of this action.

38. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant questions are:

(a) Whether Exhibits A and C, constitute communications in connection with the collection of any debt, with any person other than the consumer, her attorney or a consumer reporting agency;

(b) Whether the debt collectors communications with any person other than the consumer state that such consumer owes a debt;

(c) Whether the the debt collector communicates with any person other than the consumer more than once;

(d) Whether Exhibits A and C are misleading;

(e) Whether Exhibits A and C violate the FDCPA;

(f) Whether the telephone calls and debt collection letters constitute an unauthorized communication with a third party in connection with the collection of a debt.

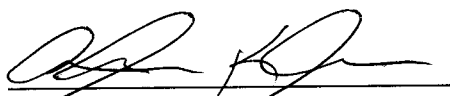
39. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

40. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

41. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

**WHEREFORE**, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendant for:

- (a) Statutory damages;
- (b) Actual damages for any class member that paid the debt;
- (c) Attorney's fees, litigation expenses and costs of suit;
- (d) Such other or further relief as the Court deems proper.



Abraham Kleinman (AK-6300)

KLEINMAN LLC

626 RXR Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Facsimile (888) 522-1692

William F. Horn, Esq. (WH-1070)

LAW OFFICE OF WILLIAM F. HORN

188-01B 71st Crescent

Fresh Meadows, NY 11365

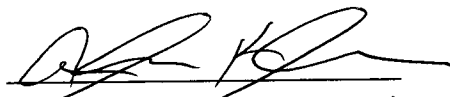
Telephone: (718) 785-0543

Facsimile: (866) 596-9003

E-Mail: bill@wfhlegal.com

**JURY DEMAND**

Plaintiff demands trial by jury.



Abraham Kleinman (AK-6300)



EXHIBIT A

\*\*\*\*\*

Reference #:  
7445712

**Unpaid Balance:**  
**\$577.46**

Our company represents Capital One N.A. Re Kohl's Department Stores Inc, and we have learned that your loved one - who was a valued customer - has passed away. We are sorry for your loss, and we understand this is a difficult time for you. Our goal is to make this process as effortless as possible for everyone involved.

Our records show that at present, there is an unpaid balance of \$577.46 on this credit account. Please accept this letter as a Notice of Claim on behalf of our client.

This letter is sent to you solely in your capacity as personal representative of the Estate of CAROLYN T SCARANTINO. Please call our office toll free at 1-877-326-1530 to discuss resolution of this matter and payment on this account. If you are not the personal representative, please contact us with the name and address of the personal representative or Estate Attorney who is handling the affairs of the deceased. Simply contact us by phone, enter the information online at [www.DCMagent.com](http://www.DCMagent.com), or check the box below and complete the reverse side.

The following are payment options: Complete the payment slip below and mail in the enclosed postage paid envelope or call DCM Services toll-free at 1-877-326-1530 to pay using a check or electronic debit. Additional payment options may also be available by phone; please ask our representative for details.

Lastly, DCM Services is pleased to provide you with complimentary access to [www.MyWayForward.com](http://www.MyWayForward.com), a unique website for survivors and those tasked with the responsibility of handling the final affairs of the deceased. Log on using code **tjszjxrz** to find welcome assistance on financial, legal and government matters, along with helpful information on well-being and remembering the deceased.

On behalf of Capital One N.A. Re Kohl's Department Stores Inc and DCM Services, please accept our condolences.

Sincerely,

DCM Services, LLC

**\*IMPORTANT NOTICE\***

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume the debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

DCM Services is a debt collector. We are attempting to collect a debt and any information obtained will be used for that purpose. Calls may be monitored or recorded for quality assurance purposes.

**NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION** -Side 1 of 2-

7:00 am - 9:00 pm CT M-TH  
7:00 am - 5:00 pm CT F  
8:00 am - 12:00 pm CT S  
Telephone: 763-852-8620  
Toll-Free: 877-326-1530  
Fax: 877-326-8784

**\*\*\*Detach Lower Portion and Return with Payment\*\*\***



**We appreciate your response. Please call us toll-free at 1-877-326-1530 if you have any questions.**

Reference: [REDACTED] Client ID: KOHL35  
Unpaid Balance: \$577.46

**Amount Enclosed:**

3

**Do Not Send Cash. Make Checks Payable to:  
DCM Services LLC**

7

**Check box to indicate you are not the correct recipient of this letter. Please provide the correct personal representative's information on the reverse side and send to DCM Services in the enclosed postage paid envelope.**

DCM Services - Payment Processing  
PO Box 9317  
Minneapolis MN 55440-9317



7445712 4434

**18739-8001-52**

Exhibit B

**SANDRA MUNDY  
38 CENTRAL AVENUE  
TAPPAN, NEW YORK 10983**

July 29, 2011


**VIA FACSIMILE TO**

**(877) 326-1530**

**DCM Services, LLC**

**4150 Olson Memorial Highway, Suite 200**

**Minneapolis, MN 55422-4811**

<b>Re:</b>	<b>Your Client:</b>	<b>Capital One, N.A. Re Kohl's Department Stores, Inc.</b>
	<b>Account Number:</b>	<b>*****</b>
	<b>Reference Number:</b>	<b>7445712</b>
	<b><u>Disputed Unpaid Balance:</u></b>	<b><u>\$577.46</u></b>

Dear Sir or Madam:

My name is Sandra Mundy.

I am the daughter of Carolyn T. Scarantino.

I have read your June 30, 2011 Notice of Claim.

A copy of the Notice of Claim is provided.

Please be advised that I believe that the Capital One NA debt is not a valid debt.

Therefore, I dispute the validity of the Capital One NA debt.

Please obtain verification that the Capital One NA debt is a valid debt and and mail a copy of the verification.

Thank You,

Sandra Mundy

**Enclosure: Notice of Claim**

Exhibit C



**4150 OLSON MEMORIAL HIGHWAY, SUITE 200  
MINNEAPOLIS, MINNESOTA 55422-4811**

TELEPHONE 763-852-8620

FAX 877-326-8784

**TOLL-FREE 877-326-1530**

Hours (CT):

7:00 am - 9:00 pm M - TH

7:00 am - 5:00 pm F

8:00 am - 12:00 pm Sa

August 10, 2011

The Estate of CAROLYN T SCARANTINO:  
C/O SANDRA MUNDY  
38 CENTRAL AVE  
TAPPAN NY 10983

Re:	Our Client:	Capital One, N.A. Re: Kohl's Department Stores, Inc
	Account No:	*****[REDACTED]
	Unpaid Balance:	\$577.46
	Reference No:	7445712

Dear Sir or Madam:

Per your request, enclosed is the documentation for the above-mentioned account.

Thank you for your attention on this account. Please contact us at 1-877-326-1530 to discuss this matter.

Cordially,  
DCM Services, LLC

Enclosure

This company is a debt collector. We are attempting to collect a debt and any information obtained will be used for that purpose. Calls may be monitored or recorded for quality assurance purposes.

**NOTICE: SEE NEXT PAGE FOR IMPORTANT INFORMATION - Page 1 of 2 -**

**\*IMPORTANT INFORMATION\***

Under the law we are required to notify you of the following information. This list does not include a complete list of rights consumers have under State and Federal Laws.

**NOTICE ABOUT ELECTRONIC CHECK CONVERSION**

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

**FOR COLORADO RESIDENTS**

Colorado Office Information: Colorado Manager Inc. 80 Garden Center, Suite 3, Broomfield, CO 80020, (303) 920-4763.

**FOR MASSACHUSETTS RESIDENTS**

**NOTICE OF IMPORTANT RIGHTS**

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

**FOR MINNESOTA RESIDENTS**

This Collection Agency is licensed by the Minnesota Department of Commerce.

**FOR NEW YORK CITY RESIDENTS**

New York City Department of Consumer Affairs License Number: 1239504  
To discuss this account, please call our toll free number to speak with Kraig Krohn. A representative will be able to assist you during our normal business hours.

**FOR NORTH CAROLINA RESIDENTS**

North Carolina Permit Number: 4440

**FOR TENNESSEE RESIDENTS**

This Collection Agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

**KOHL'S**P.O. Box 3004  
MILWAUKEE, WI 53201-3004CREDITOR: Chase Bank USA, N.A.  
RE:Kohl's Department Stores, Inc.

Account Number	[REDACTED]	Stmt Closing Date	07/19/2011
Statement Date	07/19/2011	Stmt Due Date	08/17/2011
		Previous Balance	\$ 705.04
		Total Charges	\$ -
		Total Payments	\$ -
		Total Credits	\$ 127.58
		Finance Charge	\$ -
		New Balance	\$ 577.46
		Minimum Due	\$ 25.00
		Amount Past Due	\$ 140.42
		Total Payment Now Due	\$ 165.42
		Finance Charge Free Payment	\$ 577.46

CAROLYN T SCARANTINO

797 DELAFIELD AVE  
APT 2  
STATEN ISLAND, NY 10310-2210

Min Pay Method	Min Amt	
Credit Limit	700	
Available Credit	0	
Min Finance Chg	0.5	
Stmt Pull Code		

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	585.96	0
0	0	0	0
0	0	0	0

Account Number	[REDACTED]	Stmt Closing Date	06/19/2011
Statement Date	06/19/2011	Stmt Due Date	07/17/2011
		Previous Balance	\$ 647.13
		Total Charges	\$ 46.10
		Total Payments	\$ -
		Total Credits	\$ -
		Finance Charge	\$ 11.81
		New Balance	\$ 705.04
		Minimum Due	\$ 54.00
		Amount Past Due	\$ 119.00
		Total Payment Now Due	\$ 173.00
		Finance Charge Free Payment	\$ 235.00

CAROLYN T SCARANTINO

797 DELAFIELD AVE  
APT 2  
STATEN ISLAND, NY 10310-2210

Min Pay Method	% Bal +	
Credit Limit	700	
Available Credit	0.00	
Min Finance Chg	0.50	
Stmt Pull Code		

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	647.13	11.81
0	0	0	0
0	0	0	0

Account Number	[REDACTED]	Stmt Closing Date	05/19/2011
Statement Date	05/19/2011	Stmt Due Date	06/17/2011
		Previous Balance	\$ 591.15
		Total Charges	\$ 45.19
		Total Payments	\$ -
		Total Credits	\$ -
		Finance Charge	\$ 10.79
		New Balance	\$ 647.13
		Minimum Due	\$ 53.00

CAROLYN T SCARANTINO

797 DELAFIELD AVE  
APT 2  
STATEN ISLAND, NY 10310-2210

Min Pay Method	% Bal +	
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Credit Limit	1000	Amount Past Due	\$	66.00
Available Credit	352.87	Total Payment Now Due	\$	119.00
Min Finance Chg	0.50	Finance Charge Free Payment	\$	216.00
Stmt Pull Code				

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	591.15	10.79
0	0	0	0
0	0	0	0

Account Number	[REDACTED]	Stmt Closing Date	04/19/2011
Statement Date	04/19/2011	Stmt Due Date	05/17/2011
CAROLYN T SCARANTINO		Previous Balance	\$ 546.86
		Total Charges	\$ 34.31
		Total Payments	\$ -
		Total Credits	\$ -
		Finance Charge	\$ 9.98
797 DELAFIELD AVE		New Balance	\$ 591.15
APT 2		Minimum Due	\$ 41.00
STATEN ISLAND, NY 10310-2210		Amount Past Due	\$ 25.00
Min Pay Method	% Bal +	Total Payment Now Due	\$ 66.00
Credit Limit	1500	Finance Charge Free Payment	\$ 197.00
Available Credit	908.85		
Min Finance Chg	0.50		
Stmt Pull Code			

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	546.86	9.98
0	0	0	0
0	0	0	0


Account Number	[REDACTED]	Stmt Closing Date	03/19/2011
Statement Date	03/19/2011	Stmt Due Date	04/17/2011
CAROLYN T SCARANTINO		Previous Balance	\$ 553.22
		Total Charges	\$ 8.61
		Total Payments	\$ 25.00
		Total Credits	\$ -
		Finance Charge	\$ 10.03
797 DELAFIELD AVE		New Balance	\$ 546.86
APT 2		Minimum Due	\$ 25.00
STATEN ISLAND, NY 10310-2210		Amount Past Due	
Min Pay Method	Min Amt	Total Payment Now Due	
Credit Limit	1500	Finance Charge Free Payment	\$ 182.00
Available Credit	953.14		
Min Finance Chg	0.50		
Stmt Pull Code			

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	549.64	10.03
0	0	0	0
0	0	0	0


Account Number	[REDACTED]	Stmt Closing Date	02/19/2011
Statement Date	02/19/2011	Stmt Due Date	03/17/2011

CAROLYN T SCARANTINO		Previous Balance	\$	564.32
797 DELAFIELD AVE		Total Charges	\$	8.71
APT 2		Total Payments	\$	30.00
STATEN ISLAND, NY 10310-2210		Total Credits	\$	-
Min Pay Method	Min Amt	Finance Charge	\$	10.19
Credit Limit	1500	New Balance	\$	553.22
Available Credit	946.78	Minimum Due	\$	25.00
Min Finance Chg	0.50	Amount Past Due		
Stmt Pull Code		Total Payment Now Due		
		Finance Charge Free Payment	\$	184.00

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	558.51	10.19
0	0	0	0
0	0	0	0

Account Number		Stmt Closing Date	01/19/2011
Statement Date	01/19/2011	Stmt Due Date	02/17/2011
CAROLYN T SCARANTINO		Previous Balance	\$ 570.11
797 DELAFIELD AVE		Total Charges	\$ 8.89
APT 2		Total Payments	\$ 25.00
STATEN ISLAND, NY 10310-2210		Total Credits	\$ -
Min Pay Method	Min Amt	Finance Charge	\$ 10.32
Credit Limit	1500	New Balance	\$ 564.32
Available Credit	935.68	Minimum Due	\$ 25.00
Min Finance Chg	0.50	Amount Past Due	
Stmt Pull Code		Total Payment Now Due	
		Finance Charge Free Payment	\$ 188.00

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	565.27	10.32
0	0	0	0
0	0	0	0

Account Number		Stmt Closing Date	12/19/2010
Statement Date	12/19/2010	Stmt Due Date	01/17/2011
CAROLYN T SCARANTINO		Previous Balance	\$ 575.68
797 DELAFIELD AVE		Total Charges	\$ 8.98
APT 2		Total Payments	\$ 25.00
STATEN ISLAND, NY 10310-2210		Total Credits	\$ -
Min Pay Method	Min Amt	Finance Charge	\$ 10.45
Credit Limit	1500	New Balance	\$ 570.11
Available Credit	929.89	Minimum Due	\$ 25.00
Min Finance Chg	0.50	Amount Past Due	
Stmt Pull Code		Total Payment Now Due	
		Finance Charge Free Payment	\$ 190.00

Annual Pct Rate	Monthly Periodic Rate	Avg Daily Balance	Finance Charge
21.90%	1.82%	572.34	10.45
0	0	0	0
0	0	0	0